

**Remarks**

The claims in the application are as originally filed so that all claims 1-10 remain for the Examiner's further consideration.

Claims 1-10 were rejected as unpatentable over McMahon in view of Vardoulakis et al. Reconsideration of this rejection is respectfully requested.

Clam 1 defines the load test machine as comprising a base block (1), at least a pair of posts (3) rising from the base block, a cross head (4) spanning between the pair of posts, and an actuator (11) mounted on the base block or the cross head which is for the purpose of applying a load on a test piece positioned between the cross head and the base block. The cross head is secured to each of the posts via an elastic member (6) which is constructed to be changeable in its jointing position with the cross head or with each of the posts to change a resonance frequency of the test machine.

It is submitted that the portions of claim 1 underlined in the preceding paragraph patentably distinguish the invention from the prior art of record. The Examiner acknowledges in the action that McMahon does not disclose the underlined portions of claim 1. It is submitted that Vardoulakis et al. also fails to disclose the portions of claim 1 underlined above. Vardoulakis et al. discloses a crosshead 60 that is slidably mounted on ball bearings 61 that are mounted on posts 57, with a connecting bar 66 fixed to the tops of the posts 57. However, Vardoulakis et al. does not show a connection between the connecting bar 66 and the posts 57 which is changeable. The connection in Vardoulakis et al. is not changeable and there is no member which is elastic. Accordingly this reference does not disclose or suggest the

portions of claim 1 underlined in these preceding remarks. Accordingly claim 1 is believed to be allowable over any combination of McMahon and Vardoulakis et al.

Claim 2 depends from claim 1 and adds that the cross head is a solid block. This claim is believed to be allowable along with claim 1.

Claim 3 is similar to claim 1 but states that the elastic member is made of metal and that the elastic member extends laterally from the post to define an arm while the cross head is jointed to the arm of the elastic member, the elastic member being changeable in its jointing position with the cross head. The underlined portion of this claim is not shown in either McMahon or Vardoulakis et al. The connecting member 66 in Vardoulakis et al. is not changeable in its jointing position and hence does not even suggest the invention as recited in claim 3.

Claim 4 depends from claim 3 and states that the arm of the elastic member is progressively reduced in its cross section. Claim 4 is believed to be allowable along with claim 3 and also because of the novel additional limitations recited in claim 4. Vardoulakis et al. does not disclose this progressive reduction in cross section of an elastic member.

Claim 5 is believed to be allowable along with claim 4 and also because of the further limitation that the elastic member is progressively reduced in depth. This additional limitation is neither disclosed nor suggested in any of the references.

Claim 6 is dependent upon on any one of claims 3 to 5 and adds that the cross head is a solid block. This claim is believed to be allowable for the same reasons as the claims from which it depends.

Claim 7 is similar to claim 3, but further includes a seat piece (51). The seat piece is changeable in its jointing position to the cross head. None of the references disclose a seat piece for the elastic member, nor a seat piece which is changeable in its jointing position with the cross head.

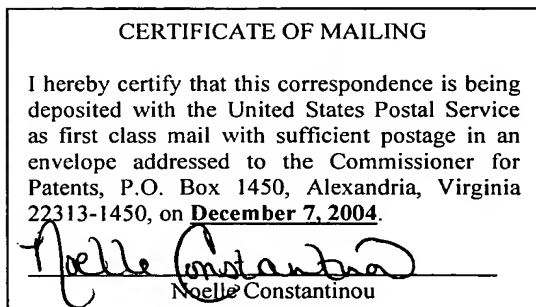
Claim 8 depends from claim 7 and further states that the arm of the elastic member is progressively reduced in its cross section. This additional limitation is not shown in the references and accordingly claim 8 is believed to be allowable along with claim 7 and further because of the additional limitation recited therein.

Claim 9 depends from claim 8 and states that the arm of the elastic member is progressively reduced in depth, a further distinguishing feature of applicant's invention.

Claim 10 is dependent upon any of claims 7 to 9 and adds that the cross head is a solid block. Claim 10 is believed to be allowable along with claims 7 to 9.

In view of the foregoing, further and favorable consideration of the application is respectfully requested.

The Commissioner is hereby authorized to charge any fees or credit any overpayment in connection with this communication to our Deposit Account No. 50-0852. A duplicate copy of this sheet is enclosed.



Respectfully submitted,

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Claim 7 is similar to claim 3, but further includes a seat piece (51). The seat piece is changeable in its jointing position to the cross head. None of the references disclose a seat piece for the elastic member, nor a seat piece which is changeable in its jointing position with the cross head.

Claim 8 depends from claim 7 and further states that the arm of the elastic member is progressively reduced in its cross section. This additional limitation is not shown in the references and accordingly claim 8 is believed to be allowable along with claim 7 and further because of the additional limitation recited therein.

Claim 9 depends from claim 8 and states that the arm of the elastic member is progressively reduced in depth, a further distinguishing feature of applicant's invention.

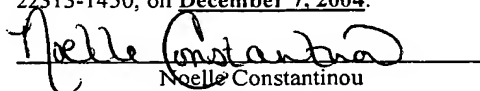
Claim 10 is dependent upon any of claims 7 to 9 and adds that the cross head is a solid block. Claim 10 is believed to be allowable along with claims 7 to 9.

In view of the foregoing, further and favorable consideration of the application is respectfully requested.

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on December 7, 2004.

  
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